

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	
)	AWG Docket No. 11-0034
Thomas M. Crnkovic)	
)	
Petitioner)	Decision and Order

1. Thomas M. Crnkovic, full name Thomas Matthew Crnkovic, the Petitioner (“Petitioner Crnkovic”), represents himself (appears *pro se*). The hearing by telephone was held on January 5, and on May 4, 2011.

2. Rural Development, an agency of the United States Department of Agriculture (USDA), is the Respondent (“USDA Rural Development”) and is represented by Mary E. Kimball. The address for USDA Rural Development for this case is

Mary E. Kimball, Branch Accountant
USDA / RD New Program Initiatives Branch
Bldg 105 E, FC-22, Post D-2
4300 Goodfellow Blvd
St Louis MO 63120-1703

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3. I encourage **Petitioner Crnkovic and the collection agency** to work together to **establish a repayment schedule** rather than proceeding with garnishment, even though this Decision authorizes garnishment beginning June 2013. Petitioner Crnkovic will have to make himself available to the collection agency if he wants to negotiate. *See* paragraph 11.

Summary of the Facts Presented

4. USDA Rural Development’s Exhibits, plus Narrative, Witness & Exhibit List, were filed on December 16, 2010, and are admitted into evidence, together with the testimony of Ms. Kimball.

5. Petitioner Crnkovic's most recently completed "Consumer Debtor Financial Statement," and attachments, were filed on May 9, 2011, and are admitted into evidence, together with the testimony of Petitioner Crnkovic. Also admitted into evidence are his statement written in September 2010 attached to his Hearing Request; and his statement and earlier completed "Consumer Debtor Financial Statement" filed on January 5, 2011.
6. Petitioner Crnkovic owes to USDA Rural Development **\$29,090.80** (as of November 30, 2010) in repayment of two Rural Housing Service loans, one assumed in 1998, and the other made in 1998, for a home in Louisiana, the balance of which is now unsecured ("the debt").
7. Potential Treasury fees in the amount of 28% (the collection agency keeps 25% of what it collects; Treasury keeps another 3%) on **\$29,090.80** would increase the current balance by \$8,727.24, to \$37,818.04. *See* USDA Rural Development Exhibits, esp. RX 8 (both pages).
8. The amount borrowed from USDA Rural Development was \$49,945.00 in 1998 (\$46,000.00 on the assumed loan, plus \$3,945.00). By the time of the short sale in 2003, that debt had grown to \$54,733.39. From the sale of the home, \$18,500.00 was applied to the debt. Adjustments plus collections since then (*see* RX 7 (both pages)), have reduced the balance to **\$29,090.80**, as of November 30, 2010. RX 7, page 1.
9. Petitioner Crnkovic's disposable income is about \$1,400.00 per month. [Disposable income is gross pay, minus withholding for such items as income tax, Social Security, Medicare, health insurance, and the like.] Although Garnishment at 15% of Petitioner Crnkovic's disposable pay would yield roughly \$210.00 per month in repayment of the debt, he cannot withstand garnishment in that amount without hardship. Petitioner Crnkovic is supporting three minor children in addition to himself, and he is helping to support his father, who recently had a heart attack and surgery. Petitioner Crnkovic owes back income taxes; he's trying to help pay for his father's medications; and thousands of dollars of medical bills are unpaid. Further, with his move to his father's house, he was without income for four months, from November 2010 until near the end of February 2011. To prevent hardship, potential garnishment to repay "the debt" (*see* paragraph 6) must be limited to **0%** of Petitioner Crnkovic's disposable pay through May 2013; then up to **3%** of Petitioner Crnkovic's disposable pay beginning June 2013 through May 2015; then up to **5%** of Petitioner Crnkovic's disposable pay thereafter. 31 C.F.R. § 285.11.
10. Petitioner Crnkovic is responsible and willing and able to negotiate the disposition of the debt with Treasury's collection agency.

Discussion

11. Through May 2013, no garnishment is authorized. Beginning June 2013 through May 2015, garnishment up to 3% of Petitioner Crnkovic's disposable pay is authorized; and thereafter, garnishment up to 5% of Petitioner Crnkovic's disposable pay is authorized. *See* paragraph 9. I encourage **Petitioner Crnkovic and the collection agency to negotiate promptly** the repayment of the debt. Petitioner Crnkovic, this will require **you** to telephone the collection agency after you receive this Decision. The toll-free number for you to call is **1-888-826-3127**. You may choose to offer to the collection agency to compromise the debt for an amount you are able to pay, to settle the claim for less.

Findings, Analysis and Conclusions

12. The Secretary of Agriculture has jurisdiction over the parties, Petitioner Crnkovic and USDA Rural Development; and over the subject matter, which is administrative wage garnishment.

13. Petitioner Crnkovic owes the debt described in paragraphs 6, 7 and 8.

14. **Garnishment is authorized**, as follows: through May 2013, **no** garnishment. Beginning June 2013 through May 2015, garnishment up to 3% of Petitioner Crnkovic's disposable pay; and thereafter, garnishment up to 5% of Petitioner Crnkovic's disposable pay. 31 C.F.R. § 285.11.

15. Repayment of the debt may also occur through **offset** of Petitioner Crnkovic's **income tax refunds** or other **Federal monies** payable to the order of Mr. Crnkovic.

Order

16. Until the debt is repaid, Petitioner Crnkovic shall give notice to USDA Rural Development or those collecting on its behalf, of any changes in his mailing address; delivery address for commercial carriers such as FedEx or UPS; FAX number(s); phone number(s); or e-mail address(es).

17. USDA Rural Development, and those collecting on its behalf, are **not** authorized to proceed with garnishment through May 2013. Beginning June 2013 through May 2015, garnishment up to 3% of Petitioner Crnkovic's disposable pay is authorized; and garnishment up to 5% of Petitioner Crnkovic's disposable pay thereafter. 31 C.F.R. § 285.11.

Copies of this Decision shall be served by the Hearing Clerk upon each of the parties.

Done at Washington, D.C.
this 10th day of May 2011

s/ Jill S. Clifton

Jill S. Clifton
Administrative Law Judge

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